STIPULATED MOTION TO STAY PROCEEDINGS; ORDER ON STIPULATED MOTION

Case 3:12-cv-00424-EMC $\,$ Document 49 $\,$ Filed 11/19/12 $\,$ Page 1 of 4 $\,$

Plaintiff and Counter-Defendant Catlin Specialty Insurance Company ("Catlin") and Defendant and Counter-Claimant CAMICO Mutual Insurance Company ("CAMICO") (collectively referred to herein as the "Parties") hereby advise the Court that they have reached an agreement in principle that would resolve the insurance coverage issues being litigated in this action. Therefore, Catlin and CAMICO request that the Court vacate all pending dates, and that this action be stayed to allow the parties the opportunity to resolve this matter without the Parties or the Court incurring the costs associated with further litigation. The Parties further request that the Court set a status conference on January 11, 2013 at 10:30 a.m., or another day convenient for the Court, so that the Parties can apprise the Court of the status of the resolution of this case.

In support of this motion, the Parties state:

- 1. It is expected that the agreement in principle reached between them will resolve the coverage disputes at issue in this action. However, the Parties need additional time to work out the details of the agreement in principle.
- 2. Under the law, "the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel and for the litigants." *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). "When and how to stay proceedings is within the sound discretion of the trial court." *Cherokee Nation v. United States*, 124 F.3d 1413, 1416 (Fed. Cir. 1997).
- 3. "Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). "Among these competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Id.*

28 | | ///

///

1	4. Here, the Parties agree that th	is action should be stayed and agree that the stay
2	will facilitate resolution of the contested iss	ues in this case. The stay should also afford the
3	time necessary for resolution of and dismiss	sal of this action without further action from the
4	Court, thereby conserving judicial resour	ces and eliminating the burden of the costs
5	associated with further litigation on the Parti	es and the Court.
6	5. The only previous modification	on to the case schedule requested to date consists
7	of Catlin's request for a continuance of the	Court's final determination of cross motions for
8	summary judgment (Docket Nos. 26 and 2	28) allowing Catlin to conduct discovery under
9	Federal Rule of Civil Procedure, Rule 56(d), which the Court granted. The Court ordered
10	supplemental briefs due on January 7, 2013,	responses to supplemental briefs due on January
11	14, 2013, and summary judgment hearing of	on the collusion issues and exclusion clauses on
12	February 1, 2013.	
13	Wherefore, for the reasons stated ab	ove, Catlin and CAMICO request that the Court
14	vacate all pending dates, that this action be	stayed, and that the Court set a status conference
15	on January 11, 2013 at 10:30 a.m., or another	er day convenient for the court, so that the Parties
16	can apprise the Court of the status of the resolution of this case.	
17		Respectfully submitted,
18	Dated: November 15, 2012	GORDON & REES LLP
19		
20		By /s/ Matthew S. Foy Matthew S. Foy, Esq.
21		Geoffrey Hutchinson, Esq. Attorney for Plaintiff/Counter-Defendant
22		CATLIN SPECIALTY INSURANCE COMPANY
23		
24	Dated: November 15, 2012	MUSICK, PEELER & GARRETT LLP
25		D. //Cill . D. I.
26		By /s/ Gilbert D. Jensen Gilbert D. Jensen, Esq.
27		Attorney for Defendant/Counter-Claimant CAMICO MUTUAL INSURANCE COMPANY
28		
		2 Com No 12 CV 00424 EMC

STIPULATED MOTION TO STAY PROCEEDINGS; ORDER ON STIPULATED MOTION

1	ATTESTATION OF E-FILED SIGNATURE	
2	I, Matthew S. Foy, am the ECF user whose ID and password are being used to file this	
3	Stipulated Motion to Stay Proceedings. In compliance with Local Rule 5-1, I hereby attest	
4	that Gilbert D. Jensen, counsel for Defendant/Counterclaimant CAMICO Mutual Insurance	
5	Company has concurred in this filing.	
6	Dated: November 15, 2012 GORDON & REES LLP	
7	By /s/ Matthew S. Foy	
8	Matthew S. Foy, Esq. Attorney for Plaintiff/Counter-Defendant	
9	CATLIN SPECIALTY INSURANCE COMPANY	
10		
12		
13	ORDER	
14	PURSUANT TO STIPULATION, IT IS SO ORDERED:	
15	All pending dates are vacated and this action is stayed.	
16	The parties shall appear at a Status Conference to report on the status of the resolution	
17	of the case on:1/17/13 at 10:30 a.m. An updated joint CMC statement shall be filed	
18	by 1/10/13. Dated: November 19, 2012	
19	Butcu. Hovember 19, 2012	
20	Honovable Edward	
21		
22	Judge Edward M. Chen	
23		
24	DISTRICT OF CE	
25	DISTRICT	
26		
27		
28		

CATLN/1073181/14080229v.1 28